



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2022-0290; FRL-10107-02-R4]

Air Plan Approval and Air Quality Designation; GA; Redesignation of the Atlanta, Georgia 2015 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 28, 2022, the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, submitted a request for the Environmental Protection Agency (EPA) to redesignate the Atlanta, Georgia 2015 8-hour ozone nonattainment area (hereinafter referred to as the “Atlanta Area” or “Area”) to attainment for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is approving the State’s plan for maintaining attainment of the 2015 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for the years of 2018 and 2033 for the Area, incorporating the maintenance plan into the SIP, and redesignating the Area to attainment for the 2015 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA’s adequacy determination for the MVEBs for the Area.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2022-0290. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e.,

Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9029. Ms. Spann can also be reached via electronic mail at spann.jane@epa.gov.

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is taking the following separate but related actions: (1) Approving Georgia's plan for maintaining the 2015 ozone NAAQS (maintenance plan), including the associated MVEBs for the Atlanta Area, and incorporating the plan into the SIP, and (2) redesignating the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Atlanta Area. The Atlanta Area consists of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in Georgia.

EPA is taking final action to approve Georgia's maintenance plan for the Atlanta Area as meeting the requirements of section 175A, such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status, and incorporate it into the SIP. The

maintenance plan is designed to keep the Atlanta Area in attainment of the 2015 8-hour ozone NAAQS through 2033. The maintenance plan includes 2018 and 2033 MVEBs for NO_x and VOC for the Atlanta Area for transportation conformity purposes. EPA is approving these MVEBs and incorporating them into the SIP. EPA is also taking final action to determine that the Atlanta Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA.

EPA is also notifying the public of the status of EPA's adequacy process for the MVEBs for the Atlanta Area. The Adequacy comment period began on February 11, 2022, with EPA's posting of the availability of Georgia's submission on EPA's Adequacy Web site (<https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa>). The Adequacy comment period for these MVEBs closed on March 15, 2022. No comments, adverse or otherwise, were received during the Adequacy comment period.

In summary, this final rulemaking is in response to Georgia's February 28, 2022, redesignation request and associated SIP submission that addresses the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS.

II. Background

Effective August 3, 2018, EPA designated areas as unclassifiable/attainment or nonattainment for the 2015 8-hour ozone NAAQS that was promulgated on October 1, 2015. *See* 80 FR 65292 (October 26, 2015). The Atlanta Area was designated as nonattainment for the 2015 8-hour ozone NAAQS and classified as a marginal nonattainment area.¹ *See* 83 FR 25776 (June 4, 2018). On February 28, 2022, Georgia requested that EPA redesignate the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS and submitted a SIP revision containing the State's plan for maintaining attainment of the 2015 8-hour ozone standard in the Area, including

¹ That Atlanta Area consists of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in Georgia.

2018 and 2033 MVEBs for NO_x and VOC for the Atlanta Area.

In a notice of proposed rulemaking (NPRM) published on August 26, 2022, *see* 87 FR 52487, EPA proposed to approve the maintenance plan, including the 2018 and 2033 MVEBs for NO_x and VOC, and incorporate the plan into the Georgia SIP and to redesignate the Area to attainment for the 2015 8- hour ozone NAAQS. In that notice, EPA also notified the public of the status of the Agency's adequacy determination for the NO_x and VOC MVEBs for the Atlanta Area. The details of Georgia's submittal and the rationale for EPA's actions are further explained in the NPRM. Comments on the August 26, 2022, NPRM were due on or before September 26, 2022. EPA did not receive any comments on the August 26, 2022, NPRM.

III. Final Action

EPA is approving the aforementioned changes to the SIP. EPA is taking two separate but related final actions. First, EPA is approving the maintenance plan for the Atlanta Area, including the NO_x and VOC MVEBs for 2018 and 2033, and incorporating it into the Georgia SIP. The maintenance plan demonstrates that the Area will continue to maintain the 2015 8-hour ozone NAAQS and that the MVEBs meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Second, EPA is approving Georgia's redesignation request for the 2015 8-hour ozone NAAQS for the Atlanta Area. Approval of the redesignation request changes the official designation of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in the Atlanta Area for the 2015 8-hour ozone NAAQS from nonattainment to attainment, as indicated at 40 CFR part 81. EPA is also notifying the public that EPA finds the newly established NO_x and VOC MVEBs for the Atlanta Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners for the Atlanta Area will need to demonstrate conformity to the new NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e).

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these actions and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rules in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. These actions are not “major rules” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a

petition for judicial review may be filed and shall not postpone the effectiveness of such rule or actions. These actions may not be challenged later in proceedings to enforce their requirements. *See* section 307(b)(2).

List of Subjects:

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, Incorporation by reference.

Dated: September 30, 2022.

Daniel Blackman,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 and part 81 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L - Georgia

2. In § 52.570(e), amend the table by adding a new entry at the end of the table for “2015 8-hour Ozone Maintenance Plan for the Atlanta Area” to read as follows:

§52.570 Identification of plan.

* * * * *

(e) * * *

EPA Approved Georgia Non-regulatory Provisions				
Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *				
2015 8-hour Ozone Maintenance Plan for the Atlanta Area	Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties	2/28/2022	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	

PART 81- DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. In § 81.311, amend the table entitled “Georgia - 2015 8-Hour Ozone NAAQS [Primary and Secondary]” by revising the entry for “Atlanta, GA,” to read as follows:

§ 81.311 Georgia.

* * * * *

Georgia - 2015 8-Hour Ozone NAAQS
[Primary and secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Atlanta, GA	[Insert date 30 days after date of publication in the Federal Register]	Attainment		
Bartow County				
Clayton County				
Cobb County				
DeKalb County				
Fulton County				
Gwinnett County				
Henry County				
**	**	*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is August 3, 2018, unless otherwise noted.

* * * * *

[FR Doc. 2022-21653 Filed: 10/14/2022 8:45 am; Publication Date: 10/17/2022]